

The *Rulebook* **of the** **Talossan Uppermost Cort**

1. Courtroom Conduct

(1.1) *Only those invited may post.* If you have an explicit invitation from a sitting Justice, you may post on the Courtroom board in accordance with any limitations or other instructions from the Cort. Otherwise, you cannot post here.

(1.2) *Follow instructions from the Justices.* If you are invited to post on the Courtroom board, play close attention to the specifics of your invitation. If you are asked a particular question, answer it and do not take the opportunity to declaim on other matters. The Cort will give you opportunities to make points you feel should be made. Just wait for the invitation to do so.

(1.3) *Conform to general Wittiquette in postings.* The Cort despises rude, insulting, imprecise humbug. Be nice, precise and concise.

(1.4) *The most senior sitting Justice is in charge of the Courtroom.* All Justices may make comments and questions petitioners, defendants, witnesses and others with business before the Cort, but the final word on what conduct is allowable in the Cort rests with the most senior Justice presiding.

(1.5) *The bailiff follows the orders of the senior most sitting Justice.* When, for example, the most senior Justice orders that an unauthorized Courtroom post be removed, the bailiff will make it so. If the most senior Justice orders that someone be barred from the Courtroom, the bailiff will make it so.

(1.6) *Failure to follow any of these rules is contempt of Cort.* If you are in contempt of Cort, you have committed a crime and are subject to the Cort's very wide discretion in determining punishment.

2. Rules of Evidence

(2.1) *General Principles.* These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined. Where these rules do not address a particular issue, the Cort may look to, but shall not be bound

by, the rules of evidence of the State of Wisconsin (Wisconsin Statutes chapters 901 through 911, hereinafter referred to as the "Wisconsin Rules of Evidence") for more specific guidance consistent with these principles.

(2.2) *Relevancy*. "Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

(2.2.1) All relevant evidence is admissible, except as otherwise provided by law or by these rules. Evidence, which is not relevant, is not admissible.

(2.2.2) Although relevant, the Court shall exclude evidence if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(2.3) *Judicial Notice*. The Court may take judicial notice, whether requested or not, of a fact that is not subject to reasonable dispute in that it is a fact generally known within the territorial jurisdiction of Talossa, or a fact capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(2.3.1) The Court shall take judicial notice of the common law and statutes of the Kingdom of Talossa and every province and territory thereof.

(2.3.2) The Court shall also take judicial notice of all properly adopted and publicly available rules, regulations, and orders of national and provincial public agencies.

(2.3.3) The law of a jurisdiction other than those referred to in paragraph (a) in this rule shall be an issue for the Court. A party seeking judicial notice of foreign law shall provide the Court and the opposing party with the necessary information.

(2.4) *Witnesses*. Every person is competent to be a witness except as otherwise provided in these rules.

(2.4.1) A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony.

(2.4.2) Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

(2.4.3) The Court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to make the interrogation and presentation effective for the ascertainment of the truth, avoid needless consumption of time, and protect witnesses from harassment or undue embarrassment. The Court may

allow testimony to be taken in person, telephonically, in writing, or electronically, so long as the Court determines that reasonable guarantees of the identity of the witness exist and the right of any criminal defendant to confront witnesses against him or her is secured.

(2.4.4) Cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the witness. The Court may, in the exercise of discretion, permit inquiry into additional matters as if on direct examination.

(2.4.5) Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness' testimony. Ordinarily leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

(2.4.6) The Court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called. The Court may also interrogate witnesses, whether called by itself or by a party.

(2.5) *Privilege*. Except as provided by or inherent or implicit in these rules, the Organic law, or statute, no person has a privilege to:

- (2.5.1) Refuse to be a witness; or
- (2.5.1) Refuse to disclose any matter; or
- (2.5.1) Refuse to produce any object or writing; or
- (2.5.1) Prevent another from being a witness or disclosing any matter or producing any object or writing.

(2.5.2) A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made between the client or the client's representative and the client's lawyer or the lawyer's representative; or between the client's lawyer and the lawyer's representative, with the exceptions contained in the Wisconsin Rules of Evidence.

(2.5.3) A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made or information obtained or disseminated for purposes of diagnosis or treatment of the patient's physical, mental or emotional condition, among the patient, the patient's physician, the patient's registered nurse, or the patient's psychologist, psychiatrist, or psychotherapist, with the exceptions contained in the Wisconsin Rules of Evidence.

(2.5.4) A person has a privilege to refuse to testify against his or her spouse, and a person has a privilege to prevent the person's spouse or former spouse from testifying against the person as to any private communication by one to the other made during their marriage, with the exceptions contained in the Wisconsin Rules of Evidence.

(2.5.5) A person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the person to a member of the clergy in the member's professional character as a spiritual adviser.

(2.5.6) A person has a privilege to refuse to disclose any information the disclosure of which by that person is protected against or prohibited by the law of a foreign state within whose territorial jurisdiction that person resides.

(2.5.7) A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing official information, if the privilege is claimed by a person authorized by the public entity to do so and disclosure is forbidden by law, or disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice.

(2.5.8) A person upon whom these rules confer a privilege against disclosure of a confidential matter or communication waives the privilege if he or she voluntarily discloses or consents to disclosure of any significant part of the matter or communication. This paragraph does not apply if the disclosure is itself a privileged communication.

(2.6) *Rule 6: Hearsay.* "Hearsay" is a statement offered at trial by one other than the individual who originally made the statement, and offered in evidence to prove the truth of the matter asserted. A statement is not hearsay, however, if it is offered against a party who made the statement, who authorized the statement, or who manifested an adoption of or belief in the truth of the statement. A statement is also not hearsay if it is a statement of a coconspirator of the party against whom it is offered, made during the course and in furtherance of the conspiracy.

(2.6.1) Hearsay is generally not admissible except as provided by a well-established hearsay exception, such as those contained in Wisconsin Statutes sections 908.03, 908.04, and 908.045.

(2.7) *Real and Demonstrative Evidence.* Nontestimonial evidence, including documents and other real or demonstrative evidence, must be authenticated prior to being admitted into evidence. The requirement of authentication is satisfied by evidence sufficient to support a finding that the evidence offered is in fact what its proponent claims it to be.

(2.7.1) Extrinsic evidence of authenticity is not required for public documents under seal of the Kingdom of Talossa or any agency or territorial subdivision thereof, for certified copies of public records, or for other documents, which are deemed self-authenticating under Wisconsin Statutes section 909.02.

(2.7.2) A duplicate is admissible to the same extent as an original unless a genuine question is raised as to the authenticity of the original or in the circumstances it would be unfair to admit the duplicate in lieu of the original. No duplicate is inadmissible solely because it is in electronic format.

3. Hearings

(3.1) *Overview.* There are three broad types of hearings that the Cort conducts: (1) hearings about criminal and civil law violations; (2) hearings about applications of law; and (3) contempt of court hearings.

(3.1.1) *Criminal and civil.* In these hearings, a Petitioner asks the Cort to consider charges against another party for violating a law or laws. The Petitioner can be the Kingdom's Attorney General or a Talossan citizen.

(3.1.2) *Applications of law.* In these hearings, a Petitioner asks the Cort to enjoin an agent of the government to obey the law or to ask for injunctive relief against an individual or individuals acting as private citizens. In the latter case, a Petitioner may file for injunctive relief under this type of hearing only where law specifically authorizes such redress. The Petitioner can be any government official or any Talossan citizen.

(3.1.3) *Contempt of court.* In this special type of hearing, the Cort undertakes an investigation into whether or not a particular act in question constitutes contempt of court. Some acts of contempt will not require an investigation or hearing. But for those that do, only the Cort can initiate such a hearing.

(3.2) *Criminal and civil*

(3.2.1) *Filing of petition.* The first step toward a hearing takes places when a Petitioner files a complaint with the Cort. The complaint—a written document that is conveyed to all Justices of the Cort—identifies a Defendant or Defendants, states which law or laws have allegedly been violated, summarizes any relevant facts and evidence that leads the Petitioner to believe that the Defendant or Defendants are guilty of violating the law, and suggests any remedies or penalties that would satisfy the Petitioner.

(3.2.2) *Cort consent to hear case.* After receiving the Petitioner's complaint, the Cort will decide whether to hear the case. If the Cort decides not to hear the case, the Cort will—in compliance with Article XVI: Section 6 of the Organic Law—supply the Petitioner with a written justification of its refusal to hear his or her case. If the Cort consents to hear the case, the Cort will proceed to (3.2.3).

(3.2.3) *Cort opens hearing.* The Cort, having decided to hear a case, will open a hearing thread in the Courtroom forum on Wittenberg and inform the Defendant or Defendants (hereafter simply the Defendant) of the charges being filed against him or her. At this step, the Cort will set a deadline for the next step (3.2.4), the complaint amendment step.

(3.2.4) *Complaint amendment.* Before the Defendant is asked how he or she pleads, the Cort will ascertain if the Petitioner wishes to file any amendments to his or her original complaint. Such an amendment may, for example, narrow the

scope of the charges or broaden them or may modify the remedies being sought. The Petitioner will present an argument as to why the complaint should be amended.

(3.2.4.1) If an amendment is filed, the Cort will invite the Defendant, if he or she wishes to do so, to present arguments about why the Cort should not allow the amendment. The Cort will *not* invite a rebuttal from the Petitioner on this matter, but will proceed to issue a decision about whether to allow the Petitioner's proposed amendment in whole or in part. If the amendment is allowed, the Cort will give the Defendant more time to prepare his or her defense.

(3.2.5) *Hearing schedule established.* At this step, the Cort, after seeking input from both the Petitioner and the Defendant, will establish a "hearing schedule" that specifies when each of the subsequent steps of the hearing will take place. Failure of either party to meet scheduling deadlines may result in either a contempt of court charge or in the Cort deciding to issue a default judgment against the offending party.

(3.2.6) *Presentation of Petitioner's case.* The Cort will invite the Petitioner to present arguments, evidence and witnesses in conformity with the rules of evidence specified elsewhere to prove the charges he or she alleges against the Defendant. Such arguments, evidence and statements from witnesses that the Petitioner wishes to present shall be contained in a single brief filed with the Cort. In this brief, the Petitioner will supply copies of the oaths of any witnesses he or she presents.

(3.2.7) *Defendant's plea.* The Cort will ask the Defendant for his or her plea. The Defendant may enter one of three pleas: (1) guilty as charged; (2) guilty of a lesser charge or charges; and (3) not guilty as charged.

(3.2.7.1) If the Defendant pleads (1) guilty as charged, the Cort will proceed directly to (3.2.16). If the Defendant pleads (2) guilty to a lesser charge or charges, the Cort will proceed to (3.2.8). If the Defendant pleads (3) not guilty as charged, then the Cort will proceed to (3.2.9).

(3.2.8) *Plea agreement.* If the Defendant has pleaded guilty to a lesser charge or charges than the ones contain in the complaint put forward by the Petitioner, the Cort will ask the Petitioner if he or she will accept the lesser plea as offered by the Defendant or if the Petitioner would be willing to attempt to negotiate with the Defendant a mutually acceptable complaint and plea.

(3.2.8.1) If the Petitioner accepts the Defendant's plea or negotiates a mutually acceptable plea agreement, then the Cort will proceed to (3.2.16). If the Petitioner does not accept the Defendant's plea, then the Cort will proceed to (3.2.9).

(3.2.9) *Cross-examination by the Defendant.* The Court, having heard the Defendant's "not guilty as charged" plea, will allow the Defendant, if he or she chooses to do so, to cross-examine the Petitioner and any witnesses. The Defendant shall cross-examine each witness in turn. The Petitioner will be instructed to answer all fair questions asked by the Defendant. The cross-examination will be closely refereed by the Justices, and may be ended with cause by the Justices.

(3.2.10) *Presentation of the Defendant's case.* The Court will invite the Defendant to present arguments, evidence and witnesses in conformity with the rules of evidence outlined above to dispute the charges alleged against him or her by the Petitioner. Such arguments, evidence and statements from witnesses that the Defendant wishes to present shall be contained in a single brief filed with the Court. In this brief, the Defendant will supply copies of the oaths of any witnesses he or she presents.

(3.2.11) *Petitioner's rebuttal witnesses.* The Court will allow the Petitioner, if he or she so wishes, to call witnesses to rebut the testimony of the Defendant's witnesses. The testimony of the rebuttal witnesses must be in conformity with the rules of evidence and presented in a single brief filed with the Court. In this brief, the Petitioner will supply copies of the oaths of any witnesses he or she presents.

(3.2.12) *Cross-examination by the Petitioner.* The Court will now allow the Petitioner the opportunity to cross-examine the Defendant and any witnesses. The Defendant may choose not to testify (to avoid self-incrimination), and if he or she so chooses, will not be required to answer the Petitioner's questions. If, however, the Defendant elects to testify, the Defendant will be instructed to answer all fair questions asked by the Petitioner. The Petitioner shall cross-examine each witness in turn. The cross-examination will be closely refereed by the Justices, and may be ended with cause by the Justices.

(3.2.13) *Questions from the bench.* The three Justices of the Court will now be allowed to pose questions to the parties. The Justices may seek responses from both parties or only from one. The parties are advised to pay close attention to whom questions are addressed. The Defendant, if he or she has earlier chosen not to testify, may decline to answer questions.

(3.2.14) *Petitioner's summation.* The Court will now invite the Petitioner to present his final summation. The Court will not consider new arguments or new evidence at this point.

(3.2.15) *Defendant's summation.* After the Petitioner's summation is presented, the Court will invite the Defendant to present his final summation. The Court will not consider new arguments or new evidence at this point.

(3.2.16) *Verdict rendered.* Both parties having presented their full cases, the Cort will now consider the arguments and evidence before them and then issue a verdict.

(3.2.16.1) If the verdict is not guilty, the hearing is adjourned. If the verdict is guilty, then the Cort will, in addition to publishing its verdict, outline the punishment options at its disposal and proceed to (3.2.17).

(3.2.17) *In the event of a guilty verdict.* If a guilty verdict has been reached, the Cort will first, after having outlined the punishment options available to it, invite the Petitioner to present arguments about which punishment—if any—seems to best fit the crimes of which the Cort has convicted Defendant. After those arguments have been presented, the Cort will invite the Defendant to present arguments about the same question.

(3.2.18) *Full decision proclaimed.* After considering the arguments about punishment, the Cort will issue a full decision that includes the verdict and the sentence. The Cort will then—at last!—adjourn the hearing.

(3.3) Applications of law

(3.3.1) *Filing of petition.* The first step toward a hearing takes places when a Petitioner files a brief to request for the Cort to enjoin an agent of the government to obey the law or to ask for injunctive relief against an individual or individuals acting as private citizens. In the latter case, a Petitioner may file for injunctive relief under this type of hearing only where law specifically authorizes such redress. (When appropriate, parties to criminal, civil and contempt of court hearings may make motions seeking injunctive relief.) The Petitioner's brief—a written document that is conveyed to all Justices of the Cort—identifies, with references to relevant statutes, Organic Law provisions, principles and traditions, what law is being contravened or improperly interpreted or enforced by which party and states what form of relief or action the Petitioner desires.

(3.3.2) *Cort consent to hear case.* After receiving the Petitioner's brief, the Cort will first provide notice to the target of the injunction that a petition has been filed and then will proceed to decide whether to hear the case. If the Cort decides not to hear the case, the Cort will—in compliance with Article XVI: Section 6 of the Organic Law—supply the Petitioner with a written justification of its refusal to hear his or her case. If the Cort consents to hear the case, the Cort will proceed to (3.3.3).

(3.3.3) *Cort opens hearing, invites comment.* The Cort, having decided to hear a case, will open a hearing thread in the Courtroom forum on Wittenberg and may—if time and the press of circumstance allow—give any Talossan who wishes to do so a limited time to file a single brief outlining a recommended course of action for the Cort on the question before it.

(3.3.4) *Brief amendment.* Before the Cort proceeds to (3.3.5), the Cort will ascertain if the Petitioner wishes to file any amendments to his or her original brief. Such an amendment may, for example, narrow the scope of the question or broaden it or may modify the remedies being sought.

(3.3.5) *Questions from the bench.* The three Justices of the Cort will now be allowed to pose questions to the petitioner and anyone else the Cort wishes to query.

(3.3.6) *Ruling issued.* After wigged deliberation, the Cort will issue its ruling and then adjourn the hearing.

(3.4) Contempt of court

(3.4.1) *Publication of notice of contempt of court proceeding.* If the Cort deems it necessary, the Cort will initiate a contempt of court hearing by opening a hearing thread in the Courtroom forum on Wittenberg. The Cort's announcement of the initiation of such a hearing will include a description of the action that triggered the hearing.

(3.4.2) *Filing of Cort's contempt charges.* After conducting any investigation, if the Cort finds that there is good reason to believe that the Defendant has committed an act or acts of contempt of court, the Cort will inform the Defendant of the charges against him or her, the evidence that the Cort has compiled and the possible punishments to be faced by the Defendant.

(3.4.2.1) At this step the Cort will also impose a deadline for the Defendant to supply, if he or she desires to do so, the Cort with a single brief showing cause why the Defendant should not be held in contempt.

(3.4.2.2) The Cort shall also inform the Defendant that if he or she wishes to do so, he or she may represent himself or seek the assistance of counsel for his or her defense.

(3.4.3) *Defendant's cross-examination of witnesses.* In preparing his or her brief, the Defendant may submit a single list of initial questions to the Cort and to any hostile or friendly witness (including any technical experts) he or she chooses. The Cort will order such witnesses to reply to the questions promptly. After receiving replies from the witnesses, the Defendant may submit a single list of follow-up questions to the Cort and to the witnesses. The Cort will assume that all witnesses are sworn; and will hold them liable for fraudulent statements. The Defendant's questions to witnesses—and the witnesses' replies—are to be copied to the Cort.

(3.4.4) *Filing of Defendant's brief.* When the Defendant's brief is due to the Cort,

the Cort expects that the Defendant will have prepared and delivered a brief that responds to the arguments and evidence cited in the Cort's contempt complaint and report. The brief may contain statements or summaries of statements from the witnesses. The purpose of the Defendant's brief is show cause why the Cort should not find him in contempt.

(3.4.5) *Decision and verdict issued.* After considering the Defendant's brief, the Cort will issue a decision and—if applicable—impose any appropriate penalty. The Cort will then adjourn the hearing.

(4) Oaths

(4.1) Under rule (2.4.3), every witness in the Talossan Uppermost Cort is required to swear an oath that he or she will testify truthfully. The Cort requires two oaths: the judicial oath and the promise of integrity.

(4.2) *Judicial Oath.* The text of the judicial oath is as follows:

Please raise your right hand and read aloud the following oath:

"As you stand before this Cort, before the entire Kingdom of Talossa, before the whole world, before any God you may worship, and before your own conscience, do you _____ openly and solemnly swear that the testimony you give will be the truth, the whole truth and nothing but the truth"

Now reply (if you do in fact want to so swear) in the following manner (inserting your name where the blank is):

"Yes, I _____, do so swear."

(4.2) *Integrity Promise.* The text of the integrity promise is as follows:

Please raise your right hand and read aloud the following oath:

"You have sworn that your testimony to this Cort will be true. Do you _____ also promise that while you are giving your testimony to this Cort you will not communicate in any form (in conversation, via email or telephone, for example) with any person except those whom the Cort explicitly allows? Do you promise this?"

Now reply (if in fact you do want to so promise) in the following manner (inserting your name where the blank is):

"Yes, I _____, do so promise."

(5) Motions

(5.1) Parties or their legal counsel involved in civil, criminal, applications of law and contempt of court hearings, may, when appropriate, request of the Cort that it undertake actions or make decisions related to a hearing. These requests are called "motions."

(5.2) The Cort recognizes the following motions:

(5.2.1) An objection to an unfair or misleading or irrelevant or abusive line of questioning

(5.2.2) An objection to an unfair or misleading or irrelevant or abusive statement

(5.2.3) A request to the Cort to enforce rules of decorum

(5.2.4) A request for a continuance

(5.2.5) A request to divide or sever a question or parties

(5.2.6) A request to join another party (or parties) to a case

(5.2.7) A request that testimony or other statements be stricken from the record

(5.2.8) A request for procedural or other information from the Cort

(5.2.9) A request for the Cort to undertake some action

(5.2.10) A request to approach the bench for the sake of a private consultation with the Justices

(5.3) The Cort is under no obligation to grant any particular motion or request or to sustain any particular objection. Parties to hearings are instructed to use this privilege of making motions with discretion.